

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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IOVATE HEALTH SCIENCES, INC., et al.,

Plaintiffs,

v.

ORDER  
08-CV-809A

MATTHEW MASUDA t/a MILLENNIUM SPORT  
TECHNOLOGIES, et al.,

Defendants.

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The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On August 11, 2009, Magistrate Judge Scott filed a Report and Recommendation, recommending that defendants' motion to dismiss be denied without prejudice and that plaintiffs' motion for jurisdictional discovery be granted. The Magistrate Judge also recommended that defendants' motion to change venue should also be denied without prejudice pending resolution of the jurisdictional question.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendants' motion to dismiss is denied without prejudice and plaintiffs' motion for jurisdictional discovery is granted. In addition, defendants' motion to change venue is also denied without prejudice pending resolution of the jurisdictional question.

The case is referred back to Magistrate Judge Scott for further proceedings.

SO ORDERED.

*s/ Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: September 2, 2009